in the instant case *held* the statute invalid in that it allowed an attorney's fee though the claim asserted is an excessive one and on this ground it seems that such is the proper holding and that the decision is in accordance with the views so far expressed by the United States Supreme Court on the subject. *St. Louis, I. M. & S. Ry. Co.* v. *Wynne* (*supra*); *Seaboard Air Line Co.* v. *Seegers* (*supra*).

CONTRACTS—EXISTING LEGAL OBLIGATION AS CONSIDERATION.—Defendant had leased premises for a term of five years, beginning 1912, at the rate of $134 per month. In 1914 "he found it difficult to pay his rent and was often in arrears." Consequently plaintiff, the lessor, "agreed to 'cut the rent' to $75 per month" and accepted this amount monthly for a year. He then insisted on the original $134 but finally agreed to accept $100 per month. The lease having been terminated, the lessor now sues to recover the difference between the monthly sums of $75 and, later, $100 actually paid, and the stipulated $134. *Held,* plaintiff could not recover. *Brackett & Co.* v. *Lofgren,* Minn. (1918), 167 N. W. 274.

This case involved again the struggle between precedent and practicality in respect to consideration. Doing what one is already legally bound to do is not accepted by courts generally as consideration for a promise. The court, in the principal case, cites "a long line of cases * * * holding that payment by the debtor and receipt by the creditor of a part of a liquidated demand is not a satisfaction of the whole although the creditor agrees to accept it as such." While the courts persistently repeat this rule, they as consistently criticize it and avoid its application wherever possible. See 14 MICH. L. REV. 480; 16 ID. 180, and authorities cited in the principal case. The rule applies to cases in which the obligation is a debt already owing, *Bunge* v. *Koop,* 48 N. Y. 225; *Leeson* v. *Anderson,* 99 Mich. 247; and to those where the obligation is the duty to perform some act, *Foxworthy* v. *Adams,* 136 Ky. 403; *Schriner* v. *Craft,* 166 Ala. 446. But the principal case holds that it does not apply when the new promise itself, as well as the existing obligation, has been performed; that is to say, when the new agreement has been executed on both sides. To utilize this exception the court must have treated the agreement of 1914 as a new contract to lease the property for $75, in substitution for the original lease. There is nothing to indicate that the parties intended more than the simple agreement to accept $75 in lieu of $134 due,—except the desire of the court to avoid the rule. There is exact precedent cited, however. Compare, *Hastings* v. *Lovejoy,* 140 Mass. 261.

CONTRACTS — PROMISE TO CONTINUE SALARY OF EMPLOYEE ENLISTING IN SERVICE.—Defendant District Council issued a circular to teachers in its service stating that "the Authority * * * decided to pay the salaries of those teachers who are serving or who may volunteer for service with H. M. Forces during the war in accordance with the following resolution, namely:—'That all persons in the employ of the Authority who have been or may be called out for active service during the present war be granted

the necessary leave of absence for that period; that payment be made to them or their representatives during their absence from civil duty of their full civil pay, less a deduction on account of Navy or Army pay or allowance * * * *; and that this recommendation shall be deemed to apply to the cases of teachers * * * * who have left or are about to leave for active service.'" On the faith of this circular plaintiff joined the army. Later the defendant rescinded the resolution referred to. In an action to recover arrears of salary, *held* there was a contract between the parties whereby defendant was obligated to make the payments provided for in the resolution. *Davies* v. *Rhondda District Urban Council,* (Ct. of App., 1917), 87 L. J. R. (K. B.) 166.

The very natural question as to whether the resolution was a moving reason for the act of plaintiff, his enlistment, is disposed of by the finding of the court that he did so "on the faith of that resolution." See 12 HARV. L. REV., 515 *et. seq.*: 14 MICH. L. REV. 570, 573 *et seq.; Martin* v. *Meles,* 179 Mass., 114, 117; *Wisconsin & Michigan Ry. Co.* v. *Powers,* 191 U. S. 379, 386. In the principal case a further question might be made as to whether the resolution was not a mere declaration of intention to be liberal the carrying out of which was later found to be too onerous or was repented of. The fact that the resolution was in terms applicable not only to those who should enter the service but also to those who had already done so would seem to give some color to such view. Certainly the court reached what would seem to be a just result.

CRIMINAL LAW—"PUBLIC TRIAL" — WHAT CONSTITUTES.—The defendant was on trial for a crime connected with a train robbery. The trial aroused more than ordinary interest. Considerable ill feeling had developed and fights, outside the court room, had been reported to the presiding judge. Near the end of the trial the judge ordered the court cleared of all spectators except relatives of the defendants, members of the bar, and newspaper reporters. The defendant's objection to this excluding order was overruled, but on appeal it was *held* that he had been deprived of his right to a "public trial," a public trial being a trial at which the public is free to attend. *Davis* v. *United States,* 247 Fed. 394.

Similar exclusions have been *held* not to deprive the defendant of his right to a public trial when made to preserve order in the court room, *Stone* v. *People,* 3 Ill. (2 Scam.) 326; *People* v. *Tugwell,* 32 Calif. App. 520. And likewise, similar exclusions, temporarily made for the purpose of alleviating the embarrassment of a witness who was testifying to matter rather disgusting and salacious in its details, did not deprive the defendant of his right to a public trial, *Grimmett* v. *State* 22 Tex. App. 36; *State* v. *Callahan,* 100 Minn. 63. If the spectators at the trial leave on the suggestion from the judge that the evidence about to be given is not fit for a right minded person to hear, but given with a qualification that he has no actual power to exclude them from the court room, the defendant is not deprived of his right to a public trial, *People* v. *Gregory,* 8 Cal. App. 738; *State* v. *McCool,* 34 Kan. 617. And the defendant may waive his right